

13 January 1958

MEMORANDUM FOR: Mr. Houston

SUBJECT : Proceedings in Personnel Inquiries  
of Certain Employees

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The Curie Hall end of the Office has recently become involved in three different employee cases and I gather others may be forthcoming. We have had a number of discussions among ourselves and with [ ] who is doing the staff work for the Office of Personnel, and we have gotten into a number of points which I would like to discuss with you at your convenience.

- (a) [ ] raises the point that in some of the cases a Legal Advisor was asked to serve on a case on which the recommendation had been made that an employee be separated under Section 102(c) of the National Security Act. We were not asked to advise as to whether 102(c) is the proper authority. I have the impression that some, if not all, of these cases have been discussed with you prior to our getting into them, but I am not sure that this is so and, in any event, I am not sure that the 102(c) recommendation has carried your approval. Although the fact of not being asked to recommend concerning Section 102(c) does not keep us from considering this point, it does make it more difficult to sell suggestions. We will make it a practice to discuss these with you and Mr. [ ] to determine any previous Office participation.

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- (b) The case I am in reached me after some staff as to whether this should be an ERB, and whether it is an ERB. In consequence, Mr. [ ] received two letters of appointment, one from Mr. [ ] and one from General Cabell, both purporting to designate him as a Special ERB, notwithstanding the fact that ERB's under [ ] are to be appointed by the Director and to advise him. Also in this case, the employee received a notification from the Director of Personnel, notifying him of an intention to terminate and of the appointment of the ERB

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in language which, in effect, promised him a fair trial before hanging him. Further, Mr. [ ] letter of appointment from the Director of Personnel designates him an examiner. After considerable discussion with Mr. [ ] I think we have removed some of the damage caused by this preliminary pulling and hauling, but probably not all. In any event, my capitulation to his desires, was in conjunction with his agreement that he and I, in consultation with you and Mr. [ ], prepare a written form by which the Director of Personnel would appoint persons to serve in subsequent cases. I attach a copy of a memorandum I had prepared and had intended, with Mr. [ ] agreement, to recommend to Mr. [ ] that he substitute for the two appointments of Mr. [ ] I also attach a draft I had prepared and had intended to ask Mr. [ ] to send to the employee to replace the one earlier sent to him. (In this case, we are handling this problem by statements read into the record by Mr. [ ].) What I think we ought to do is to develop fairly standardized documents and have Personnel use these in normal course. It might also be well to arrange with Personnel for them to consult with us at an early stage in their handling of these cases.

- (c) Related to all these is the general understanding of the use of the EMB. [ ] says there is also something called a Special EMB, although where he draws the line certainly is not clear. We might consider drawing up a paper for Personnel, setting forth the general lines of distinction between an EMB, a Special EMB (if any), and these inquiries now under way under the auspices of the Office of Personnel.

[ ]  
Assistant General Counsel

Enclosure

OGC: [ ]:jgp

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